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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/863,098

05/22/2001

Michael D. Holder

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08/09/2005

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EXAMINER

BLOUNT, STEVEN

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,098

Applicant(s)

HOLDER ET AL.

Examiner

Steven Blount

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31 - 37, 44 - 47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31 - 37, 44 - 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 44 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 44, there is no antecedent basis for "the pre-defined time interval". Also, the use of the word "note" is indefinite.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 31, 34 - 36 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,530,909 to Simon et al.

With regard to claim 31, Simon teaches a communication network which transfers information utilizing an aerial router. Note that devices such as databases (col 4 lines 4+) typically operate under the influence of software.

With regard to claim 34, note that the acknowledgement message is taught in col 3 lines 66+, and that while it is not explicitly stated that the acknowledgment message is to "include(ing) said data about said aircraft", it is stated that the connection gets set up

in col 4 lines 10+, wherein one of ordinary skill in the art would recognize that to set up the connection it would be desirable to include this information.

information of UHF in col 6 lines 15+.

With regard to claim 35, a general purpose computer would be obvious to use in order to allow for the possibility to modify the program.

With regard to claim 36, see col 6 lines 10+ (router).

With regard to claim 44, it would be obvious to carry out a communication only if the members are within reception range.

8. Claim 32 – 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,530,909 to Simon et al in view of U.S. patent 6,445,308 to Koike.

Simon et al teach the invention as described above, but do not teach predicting a future position of the aircraft and source node and determining if the communication can be maintained for a predefined time interval. This is taught in Koike. See the abstract, an col 2 lines 1+. It would have been obvious to one of ordinary skill in the art at the time of the invention to have predicted the future position of the aircraft and source node of Simon et al and determined if the communication can maintained for a predefined time interval in light of the teachings of Koike in order to provide a more effective means for routing the data. Note that with regard to claims 22 – 26, it would be obvious to implement this process in software.

9. Claims 45 – 47 are allowed.

10. The applicants remarks have been considered by the examiner, but they are not considered persuasive. The examiner notes that the connection path is established

Art Unit: 2661

before the data is transmitted. See col 4 lines 3+, especially the remark "Each relay system then performs a data transfer". See also col 4 lines 15+ "so that the data packets including a destination address established by means of the addressing message from the second relay system can be transmitted by the connection which has been set up." Finally, see col 4 lines 35+ "The setting up of such a connection is not in itself sufficient to transmit the data packets to their destination."

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571-272-3071. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Chau Nguyen, can be reached on 571-272-3126. The fax phone

Art Unit: 2661

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ajit Patel
Primary Examiner

SB



8/5//05